

# SENATE . . . . . No. 1239

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Harriette L. Chandler**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to create the community development partnership program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	First Worcester
Steven M. Walsh	11th Essex
David M. Torrisi	14th Essex
Sean Garballey	23rd Middlesex
Anne M. Gobi	5th Worcester
John W. Scibak	2nd Hampshire
Timothy J. Toomey, Jr.	26th Middlesex
Susan C. Tucker	Second Essex and Middlesex
Bruce E. Tarr	First Essex and Middlesex
Paul McMurtry	11th Norfolk
Denis E. Guyer	2nd Berkshire
Stephen Kulik	1st Franklin
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Todd M. Smola	1st Hampden
Peter J. Koutoujian	10th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S01708 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT TO CREATE THE COMMUNITY DEVELOPMENT PARTNERSHIP PROGRAM.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby  
2 amended by inserting after Section 6I the following new section:—  
3       Section 6L. Community Investment Tax Credit. (a) For purposes of this section, the following terms shall  
4 have the following meanings:— “Community Investment Activities,” those activities carried out  
5 in furtherance of community preservation and revitalization in an low- or moderate-community to  
6 improve the housing and economic conditions of the community; and shall include, without limitation,  
7 initiatives, projects, programs, and plans to:—  
8       i.) foster the preservation, rehabilitation and construction of housing affordable to low- or moderate-  
9 households, including planning, outreach and design of affordable housing, home improvement, lead  
10 abatement, pre-purchase and post-purchase home buyer counseling and related activities;  
11       ii.) increase the business activity within the neighborhood including the provision of assistance to small  
12 business entities;  
13       iii.) increase the income and labor force participation of low- or moderate-community residents, including  
14 provision of education and training programs;

- iv.) increase the financial assets of LMI households through financial literacy programs, Individual Development Accounts, and other programs;
- v.) undertake community based planning activities that help low and moderate income communities develop strategies for community improvement;
- vi.) combat crime and increase public safety;
- vii.) increase, preserve, and maintain open space, including the purchase of land for open or conservation space;
- viii.) undertake measures to involve youth in job training, education, or community development activities.

All activities must be developed for the benefit of low- or moderate-income households or low or moderate income communities and with the involvement of the community which they intend to serve, and be certified by the department as meeting the definition of a community investment activity as described in this section. Investments in real estate purchase or construction are not eligible under this section.

“Community Partner” is defined as a community development corporation. The organization must be a non profit organization organized under Chapter 180 of the General Laws and include the following:

- (1) The organization must be designated as a 501c3 tax-exempt organization by the U.S. Internal Revenue Service.
- (2) The organization must focus a substantial majority of its efforts on serving one or more specific neighborhoods or municipalities or serving a region of the Commonwealth or serving a constituency that is economically disadvantaged.
- (3) A primary purpose of the organization is to engage local residents and businesses to work together to undertake community development programs, projects and activities which develop and improve urban, rural and suburban communities in sustainable ways that create and expand economic opportunities for low and moderate income people.

(4) The organization must be able to demonstrate to the Department that the organization's constituency, including low and moderate income people, is meaningfully represented on the board of directors of the organization. In making such determination, the Department shall consider the following criteria (a) the percentage, if any, of the board is elected by the general membership; (b) the percentage of the board members are residents of the service area; (c) the percentage of board members that are people of low or moderate income, (d) the racial and ethnic composition of the board in comparison to the racial and ethnic composition of the community being served, (e) other mechanisms, including committees, membership meetings, and others that the organization uses to ensure that their constituency has a meaningful role in the governance and direction of the organization, and (f) other criteria as determined by the Department.

“Community Partnership Fund,” a fund administered by the department of housing and community development to receive qualified investments from taxpayers for the purpose of allocating such investments to community partners.

“Low and moderate income community,” an economic target area as defined pursuant to Section 3A of Chapter 23A of the General Laws, an enhanced economic enterprise community or empowerment zone as designated by the United States Department of Housing and Urban Development, or one or more contiguous census tracts as designated by a city or town, in which either:—

(1) a majority of the households are low and moderate income households as defined herein; or (2) the unemployment rate is at least 25 per cent higher than the annual statewide average unemployment rate where such statewide unemployment rate is less than or equal to 5 per cent; provided that, if the annual statewide average unemployment rate is greater than 5 per cent, the community's unemployment rate need only be 10 per cent higher to qualify for a community investment tax credit.

“Low and moderate income households,” households which have incomes that do not exceed 80 per cent of the median income for the area, with adjustments made for smaller and larger families, as such median shall be determined from time to time by the Secretary of Housing and Urban Development pursuant to 42 USC section 1437(a)(B)(2).

“Qualified investment,” a cash contribution made to a community partner or to the community partnership fund for a community investment activity, as defined by this section.

(b) There is hereby established a Massachusetts community partnership investment tax credit.

(1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with the department of housing and community development (hereinafter, “the department”), shall authorize annually, for the 5 year period beginning January 1, 2008 and ending December 31, 2012, under this section an amount not to exceed \$5,000,000 per year. The department of housing and community development shall determine the criteria for eligibility for the credit, such criteria to be set forth in regulations promulgated under this section.

(2) The total of all tax credits granted to a tax payer pursuant to this section shall not exceed five hundred thousand dollars (\$500,000) in any one tax year and no tax credit shall be granted to any tax payer for any individual qualified in a community investment activity of less than five thousand dollars (\$5,000).

(c) A community partner may receive a qualified investment for a certified community investment activity directly from a taxpayer or the department may make an allocation of a qualified investment from the community partnership fund to the community partner provided:—

(1) Before receiving a qualified investment from a taxpayer or from the department, the community partner shall first receive certification from the department that an activity is an eligible community investment activity, as prescribed by this section. A certification shall be allowed for multi-year community investment activities.

(2) No community partner shall receive more than two hundred thousand dollars (\$200,000) worth of contributions in qualified investments in any one tax year.

(3) the department shall promulgate regulations for how community partners can apply for certification and shall design a competitive process to review such applications if the department believes that such applications will exceed the available credits.

(d) A taxpayer that makes a qualified investment to a community partner or to the community partnership fund shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this

chapter. The credit shall be equal to 80 per cent of the total qualified investment made by the taxpayer for each community investment activity, in which the taxpayer invests, and which has received certification from the department pursuant to this section. In order to receive a credit, a taxpayer must receive a certification that the taxpayer made a qualified investment to the community partnership fund or to a community partner in the tax year. The taxpayer may make a qualified investment to a community partner for a specified and certified community investment activity or for those taxpayers who have not identified a particular community investment activity through a community partner, a taxpayer may make a qualified investment to the community partnership fund for allocation by the department. The department shall issue a certification to the taxpayer after the taxpayer makes a qualified investment to the fund or to a community partner. Such certification shall be acceptable as proof that the expenditures related to such investment qualify as qualified investment for purposes of the credit allowed under this section.

(e) The credit allowable under this section shall be allowed for the taxable year in which a qualified investment is made. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

(f) Community partnership tax credits allowed to a partnership, or a limited liability company taxed as a partnership shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(g) Taxpayers eligible for the community investment tax credit may, with prior notice to and in accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent

taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; but, the carryover period shall not exceed 5 taxable years after the close of the taxable year during which the qualified historic structure received final certification and was placed in service as provided for in this section.

(h) The commissioner, in consultation with the department, shall prescribe regulations necessary to carry out this section.

SECTION 2. Chapter 63 of the General Laws, as so appearing, is hereby amended by inserting after Section 38T the following new section:—

Section 38U. Community Investment Tax Credit. (a) For purposes of this section, the following terms shall have the following meanings:—

“Community Investment Activities,” those activities carried out in furtherance of community preservation and revitalization in an low or moderate-community to improve the housing and economic conditions of the community; and shall include, without limitation, initiatives, projects, programs, and plans to:—

i.) foster the preservation, rehabilitation and construction of housing affordable to low- or moderate-households, including planning, outreach and design of affordable housing, home improvement, lead abatement, pre-purchase and post-purchase home buyer counseling and related activities;

ii.) increase the business activity within the neighborhood including the provision of assistance to small business entities;

iii.) increase the income and labor force participation of low- or moderate-community residents, including provision of education and training programs;

iv.) increase the financial assets of LMI households through financial literacy programs, Individual Development Accounts, and other programs;

v.) undertake community based planning activities that help low and moderate income communities develop strategies for community improvement; combat crime and increase public safety;

vi.) increase, preserve, and maintain open space, including the purchase of land for open or conservation space;

vii.) undertake measures to involve youth in job training, education, or community development activities.

All activities must be developed for the benefit of low- or moderate-income households or low or moderate income communities and with the involvement of the community which they intend to serve, and be certified by the department as meeting the definition of a community investment activity as described in this section. Investments in real estate purchase or construction are not eligible under this section.

“Community Partner” is defined as a community development corporation. The organization must be a non profit organization organized under Chapter 180 of the General Laws and include the following:

(1) The organization must be designated as a 501c3 tax-exempt organization by the U.S. Internal Revenue Service.

(2) The organization must focus a substantial majority of its efforts on serving one or more specific neighborhoods or municipalities or serving a region of the Commonwealth or serving a constituency that is economically disadvantaged.

(3) A primary purpose of the organization is to engage local residents and businesses to work together to undertake community development programs, projects and activities which develop and improve urban, rural and suburban communities in sustainable ways that create and expand economic opportunities for low and moderate income people.

(4) The organization must be able to demonstrate to the Department that the organization's constituency, including low and moderate income people, is meaningfully represented on the board of directors of the organization. In making such determination, the Department shall consider the following criteria

(a) the percentage, if any, of the board is elected by the general membership; (b) the percentage of the board members are residents of the service area; (c) the percentage of board members that are people of low or moderate income, (d) the racial and ethnic composition of the board in comparison to the racial and ethnic composition of the community being served, (e) other mechanisms, including committees, membership meetings, and others that the organization uses to ensure that their



constituency has a meaningful role in the governance and direction of the organization, and (f) other criteria as determined by the Department.

“Community Partnership Fund,” a fund administered by the department of housing and community development to receive qualified investments from a corporation, for the purpose of allocating such investments to community partners.

“Low and moderate income community,” an economic target area as defined pursuant to Section 3A of Chapter 23A of the General Laws, an enhanced economic enterprise community or empowerment zone as designated by the United States Department of Housing and Urban Development, or one or more contiguous census tracts as designated by a city or town, in which either: (1) a majority of the households are low and moderate income households as defined herein; or (2) the unemployment rate is at least 25 per cent higher than the annual statewide average unemployment rate where such statewide unemployment rate is less than or equal to 5 per cent; provided that, if the annual statewide average unemployment rate is greater than 5 per cent, the community’s unemployment rate need only be 10 per cent higher to qualify for a community investment tax credit.

“Low and moderate income households,” households which have incomes that do not exceed 80 per cent of the median income for the area, with adjustments made for smaller and larger families, as such median shall be determined from time to time by the Secretary of Housing and Urban Development pursuant to 42 USC Section 1437(a)(B)(2).

“Qualified investment,” a cash contribution made to a community partner or to the community partnership fund for a community investment activity, as defined by this section.

(b) There is hereby established a Massachusetts community partnership investment tax credit.

(1) The commissioner or revenue (hereinafter, “the commissioner”), in consultation with the department of housing and community development (hereinafter, “the department”), shall authorize annually, for the 5 year period beginning January 1, 2008 and ending December 31, 2012, under this section an amount not to exceed \$5,000,000 per year. The department of housing and community development shall determine

the criteria for eligibility for the credit, such criteria to be set forth in regulations promulgated under this section.

(2) The total of all tax credits granted to a tax payer pursuant to this section shall not exceed five hundred thousand dollars (\$500,000) in any one tax year and no tax credit shall be granted to any corporation for any individual qualified in a community investment activity of less than five thousand dollars (\$5,000).

(c) A community partner may receive a qualified investment for a certified community investment activity directly from a corporation subject to tax under this chapter or the department may make an allocation of a qualified investment from the community partnership fund to the community partner provided:

(1) Before receiving a qualified investment from a corporation subject to tax under this chapter or from the department, the community partner shall first receive certification from the department that an activity is an eligible community investment activity, as prescribed by this section. A certification shall be allowed for multiyear community investment activities.

(2) No community partner shall receive more than two hundred thousand dollars (\$200,000) worth of contributions in qualified investments in any one tax year.

(3) the department shall promulgate regulations for how community partners can apply for certification and shall design a competitive process to review such applications if the department believes that such applications will exceed the available credits.

(d) A corporation subject to tax under this chapter that makes a qualified investment to a community partner or to the community partnership fund shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this chapter. The credit shall be equal to 80 per cent of the total qualified investment made by the corporation for each community investment activity, in which the corporation invests, and which has received certification from the department pursuant to this section. In order to receive a credit, a corporation must receive a certification that the corporation made a qualified investment to the community partnership fund or to a community partner in the tax year.

The corporation may make a qualified investment to a community partner for a specified and certified community investment activity or for those corporations who have not identified a particular community investment activity through a community partner, a corporation may make a qualified investment to the community partnership fund for allocation by the department. The department shall issue a certification to the corporation after the corporation makes a qualified investment to the fund or to a community partner. Such certification shall be acceptable as proof that the expenditures related to such investment qualify as qualified investment for purposes of the credit allowed under this section.

(e) The credit allowable under this section shall be allowed for the taxable year in which a qualified investment is made. A corporation allowed a credit under this section for a taxable year may carry over and apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

(f) Community partnership tax credits allowed to a partnership, or a limited liability company taxed as a partnership shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(g) Corporations eligible for the community investment tax credit may, with prior notice to and in accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; but, the carryover period shall not exceed 5 taxable years after the close of the taxable year during which the qualified historic structure received final certification and was placed in service as provided for in this section.

246 (h) The commissioner, in consultation with the department, shall prescribe regulations necessary to carry  
247 out this section.